

STATE OF NEW JERSEY

In the Matter of Nicholas Connolly, Fire Fighter (M1544T), Jersey City

CSC Docket No. 2018-1670

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Examination Appeal

ISSUED: April 10, 2018 (RE)

Nicholas Connolly, represented by Michael Prigoff, Esq., appeals his score for the physical performance portion of the examination for Fire Fighter (M1544T), Jersey City.

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The record establishes that appellant took the subject portion of the examination on November 14, 2017. The physical performance portion of the exam consisted of three parts, the obstacle course, the ladder climb, and the darkened maze, and each portion had a passing point. The passing time for the darkened maze crawl was 40 seconds, and the appellant did not finish this component, and therefore failed the examination.

At the test center, the appellant stated that he did not finish the darkened maze crawl because of a dislodged 2 x 4 piece of wood that was outside of the green canvas material. He states that this wood led him out of the maze. He states that he disputed with the instructors that this wood was outside of the canvas, causing him to exit at that location, and he took a picture of it. He said he was not allowed to take the maze again and the wood was adjusted for the next candidate under the canvas. In a supplement to his appeal, the appellant states that a piece of wood had been moved by another candidate or someone else and was outside the maze covering, perpendicular to the edge of the maze. He states that when he followed the wood, he was led out of the maze, and when he attempted again, he was again led out of the maze by this misaligned wood, which was perpendicular to the crawling area.

N.J.A.C. 4A:4-2.15(b)2, Rating of examinations, states that, "examinations consisting of more than one part may be rated independently, and candidates who do not receive a passing score on one part of an examination shall be deemed to have failed the entire examination." Thus, it was necessary to pass all three portions of the physical performance examination in order to pass the exam. If a candidate did not complete any one of the three physical performance exercises in under the allotted times, that candidate failed the examination.

CONCLUSION

The appellant has not presented a persuasive argument for a retest. Each Center Supervisor makes notes of non-routine occurrences in the testing center. this case, the Center Supervisor notes indicate that the appellant blasted out of the plastic on the first straightaway. He was told that this was not the exit and that he had to proceed back into the maze and crawl to the exit. After the second time that he exited incorrectly, the appellant walked off and refused to go back in and finish his maze crawl. The Center Supervisor indicates that the appellant began stating that he was following the exit outside of the maze. The Center Supervisor observed his performance and checked the maze after his contention, and found that there was nothing wrong with it. The Center Supervisor was again contacted after the filing of this appeal. He reiterated that there was nothing wrong with the maze until the appellant blasted through the side of it. Wood was placed on the plastic on the outside to hold it down, and this was thrown off by the appellant's first exit. The appellant was told to get back into the maze where he had come out. He then crawled a few feet, turned right, and again exited the maze very near to the first place he had exited it. He was told to get back in and keep going, and he threw up his hands and said he gave up. The wood was returned to the outside of the maze and placed on the plastic where it belonged. The wood was not misplaced during the appellant's crawl, but was thrown off the plastic when the appellant improperly exited the maze the first time. The appellant's argument that he failed because the maze was faulty is unpersuasive. The appellant will not be provided with a retest.

A thorough review of the record indicates that the determination of the Division of Test Development and Analytics was proper and consistent with Civil Service Commission regulations, and that the appellant has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE CIVIL SERVICE COMMISSION ON THE 4^{TH} DAY OF APRIL, 2018

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